

ASSEMBLY BILL

No. 1862

Introduced by Assembly Member Vargas

January 17, 2006

An act to amend Section 5401 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1862, as introduced, Vargas. Workers' Compensation: first aid.

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment.

Existing law requires an employer to provide a claim form and a notice of potential eligibility for workers' compensation benefits within one working day of receiving notice or knowledge of an employee's injury that results in lost time beyond the employee's work shift at the time of injury or that results in medical treatment beyond first aid. First aid is defined to mean any one time treatment, and any followup visit, for the purpose of observation of minor industrial injuries that do not ordinarily require medical care.

This bill would provide that first aid means any one time treatment, and any followup visits, for the purpose of observation of minor industrial injuries that do not ordinarily require medical care.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5401 of the Labor Code is amended to
2 read:

5401. (a) Within one working day of receiving notice or knowledge of injury under Section 5400 or 5402, which injury results in lost time beyond the employee's work shift at the time of injury or which results in medical treatment beyond first aid, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits under this division to the injured employee, or in the case of death, to his or her dependents. As used in this subdivision, "first aid" means any one-time treatment, and any followup-visit visits for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and *these* followup-visit visits for the purpose of observation, ~~is shall be~~ considered first aid even though provided by a physician or registered professional personnel. "Minor industrial injury" shall not include serious exposure to a hazardous substance, as defined in subdivision (i) of Section 6302. The claim form shall request the injured employee's name and address, social security number, the time and address where the injury occurred, and the nature of and part of the body affected by the injury. Claim forms shall be available at district offices of the Employment Development Department and the division. Claim forms may be made available to the employee from any other source.

(b) Insofar as practicable, the notice of potential eligibility for benefits required by this section and the claim form shall be a single document and shall instruct the injured employee to fully read the notice of potential eligibility. The form and content of the notice and claim form shall be prescribed by the administrative director after consultation with the Commission on Health and Safety and Workers' Compensation. The notice shall be easily understandable and available in both English and Spanish. The content shall include, but not be limited to, the following:

(1) The procedure to be used to commence proceedings for the collection of compensation for the purposes of this chapter.

(2) A description of the different types of workers' compensation benefits.

(3) What happens to the claim form after it is filed.

(4) From whom the employee can obtain medical care for the injury.

1 (5) The role and function of the primary treating physician.

2 (6) The rights of an employee to select and change the treating
3 physician pursuant to subdivision (e) of Section 3550 and Section
4 4600.

5 (7) How to get medical care while the claim is pending.

6 (8) The protections against discrimination provided pursuant
7 to Section 132a.

8 (9) The following written statements:

9 (A) You have a right to disagree with decisions affecting your
10 claim.

11 (B) You can obtain free information from an information and
12 assistance officer of the state Division of Workers'
13 Compensation, or you can hear recorded information and a list of
14 local offices by calling [applicable information and assistance
15 telephone number(s)].

16 (C) You can consult an attorney. Most attorneys offer one free
17 consultation. If you decide to hire an attorney, his or her fee will
18 be taken out of some of your benefits. For names of workers'
19 compensation attorneys, call the State Bar of California at
20 [telephone number of the State Bar of California's legal
21 specialization program, or its equivalent].

22 (c) The completed claim form shall be filed with the employer
23 by the injured employee, or, in the case of death, by a dependent
24 of the injured employee, or by an agent of the employee or
25 dependent. Except as provided in subdivision (d), a claim form is
26 deemed filed when it is personally delivered to the employer or
27 received by the employer by first-class or certified mail. A dated
28 copy of the completed form shall be provided by the employer to
29 the employer's insurer and to the employee, dependent, or agent
30 who filed the claim form.

31 (d) The claim form shall be filed with the employer prior to
32 the injured employee's entitlement to late payment supplements
33 under subdivision (d) of Section 4650, or prior to the injured
34 employee's request for a medical evaluation under Section 4060,
35 4061, or 4062. Filing of the claim form with the employer shall
36 toll, for injuries occurring on or after January 1, 1994, the time
37 limitations set forth in Sections 5405 and 5406 until the claim is
38 denied by the employer or the injury becomes presumptively
39 compensable pursuant to Section 5402. For purposes of this
40 subdivision, a claim form is deemed filed when it is personally

- 1 delivered to the employer or mailed to the employer by first-class
- 2 or certified mail.

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